



General Assembly

February Session, 2016

Committee Bill No. 5

LCO No. 3035



Referred to Committee on FINANCE, REVENUE AND
BONDING

Introduced by:
(FIN)

**AN ACT ESTABLISHING A SURCHARGE ON THE MANUFACTURE
AND DISTRIBUTION OF OPIOIDS AND FUNDING FOR OPIOID ABUSE
PREVENTION AND TREATMENT.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2017*) (a) For the purposes of
2 this section and section 2 of this act:

3 (1) "Commissioner" means the Commissioner of Revenue Services;

4 (2) "Controlled substance" means a controlled substance, as defined
5 in section 21a-240 of the general statutes, in schedule II, or III, IV or V
6 that is also an opioid;

7 (3) "Manufacturer" means a manufacturer of a controlled substance
8 to be sold in this state, and includes, but is not limited to, a
9 manufacturer of a controlled substance that is licensed in accordance
10 with section 21a-246 of the general statutes;

11 (4) "Opioid" shall include opium, opiate, opium derivatives and
12 opium poppy;

13 (5) "Pharmacist" means a person authorized by law to practice
14 pharmacy pursuant to section 20-590, 20-591, 20-592 or 20-593 of the
15 general statutes;

16 (6) "Pharmacy" means an establishment licensed pursuant to section
17 20-594 of the general statutes; and

18 (7) "Wholesaler" means a wholesaler, as defined in section 21a-240
19 of the general statutes, of a controlled substance to be sold in this state,
20 and includes, but is not limited to, a wholesaler of a controlled
21 substance that is licensed in accordance with section 21a-246 of the
22 general statutes.

23 (b) There shall be paid to the Commissioner of Revenue Services by
24 each manufacturer or wholesaler of a controlled substance a surcharge
25 at a rate of six and thirty-five-hundredths per cent on its gross receipts
26 for any controlled substance lawfully sold on or after January 1, 2017,
27 to any of the following named persons located in this state: (1) A
28 pharmacist or pharmacy; (2) a physician, dentist or veterinarian; (3) a
29 person in charge of a hospital, incorporated college or scientific
30 institution; (4) a person in charge of a laboratory; or (5) a registrant, as
31 defined in subdivision (47) of section 21a-240 of the general statutes,
32 who is permitted to purchase and possess such controlled substance
33 under federal and state laws and regulations. Such manufacturer or
34 wholesaler may itemize and collect the amount of such surcharge on
35 any sale to a person described in subdivisions (1) to (5), inclusive, of
36 this subsection. Any person described in subdivisions (1) to (5),
37 inclusive, of this subsection who dispenses such controlled substance
38 within this state to a beneficiary of the Medicare Part D program as a
39 covered benefit under the Medicare Part D program, or to a beneficiary
40 of any other program under which such controlled substance is a
41 covered benefit that is exempt from taxation, may claim a refund of the
42 amount of such surcharge with respect to such beneficiary in
43 accordance with section 2 of this act.

44 (c) Each manufacturer or wholesaler of controlled substances that

45 lawfully sells such controlled substances to any of the persons
46 described in subsection (b) of this section shall register with the
47 Commissioner of Revenue Services not later than January 1, 2017, on
48 forms prescribed by the commissioner and each registered
49 manufacturer or wholesaler shall renew its registration with the
50 commissioner annually, in such manner as the commissioner may
51 prescribe. No manufacturer or wholesaler may engage in or transact
52 business as a manufacturer or wholesaler of controlled substances to
53 be sold in this state unless such manufacturer or wholesaler is
54 registered with the commissioner in accordance with the provisions of
55 this section. Any manufacturer or wholesaler that fails to register or
56 renew such registration in accordance with the provisions of this
57 subsection shall pay a penalty of one thousand dollars for each such
58 failure, which penalty shall not be subject to waiver.

59 (d) Each manufacturer and wholesaler shall submit a return
60 quarterly to the Commissioner of Revenue Services, applicable with
61 respect to the calendar quarter beginning January 1, 2017, and each
62 calendar quarter thereafter, on or before the last day of the month
63 immediately following the end of each such calendar quarter, on a
64 form prescribed by the commissioner, together with payment of the
65 quarterly surcharge determined and payable in accordance with the
66 provisions of this section. Whenever such surcharge is not paid when
67 due, a penalty of ten per cent of the amount due or fifty dollars,
68 whichever is greater, shall be imposed, and such surcharge shall bear
69 interest at the rate of one per cent per month or fraction thereof until
70 the same is paid. The Commissioner of Revenue Services shall cause
71 copies of a form prescribed for submitting returns as required under
72 this section to be distributed to persons subject to the surcharge.
73 Failure to receive such form shall not be construed to relieve any
74 manufacturer or wholesaler subject to the surcharge under this section
75 from the obligations of submitting a return, together with payment of
76 such surcharge within the time required. The provisions of sections 12-
77 548 to 12-554, inclusive, of the general statutes and sections 12-555a
78 and 12-555b of the general statutes shall apply to the provisions of this

79 section in the same manner and with the same force and effect as if the
80 language of said sections 12-548 to 12-554, inclusive, and sections 12-
81 555a and 12-555b had been incorporated in full into this section and
82 had expressly referred to the surcharge imposed under this section,
83 except to the extent that any such provision is inconsistent with a
84 provision of this section. Any moneys received by the commissioner
85 pursuant to this section shall be deposited into the opioid abuse
86 prevention and treatment account established in section 3 of this act.

87 (e) The Commissioner of Revenue Services shall notify the
88 Commissioner of Consumer Protection whenever a manufacturer or
89 wholesaler licensed pursuant to section 21a-246 of the general statutes
90 has continuously failed to comply with the requirements of this section
91 for a period of at least six months. The Commissioner of Consumer
92 Protection may suspend, revoke or refuse to renew the license of a
93 manufacturer or wholesaler who has continuously failed to comply
94 with the requirements of this section for a period of six months or
95 longer. The Commissioner of Revenue Services shall notify the
96 licensing authority of any other state where a manufacturer or
97 wholesaler is licensed whenever such manufacturer or wholesaler has
98 continuously failed to comply with the requirements of this section for
99 a period of at least six months.

100 (f) Nothing in this section shall exempt any person from the tax
101 imposed pursuant to chapter 228d of the general statutes with respect
102 to marijuana or other controlled substance, as those terms are defined
103 in section 12-650 of the general statutes.

104 Sec. 2. (NEW) (*Effective January 1, 2017*) (a) Any person claiming a
105 refund pursuant to subsection (b) of section 1 of this act shall file such
106 claim in accordance with this section. Each claim for a refund shall be
107 on a form prescribed by the Commissioner of Revenue Services and
108 shall be accompanied by invoices or sales receipts or other statements
109 of fact, under penalty of false statement, showing, to the satisfaction of
110 the commissioner, the amount paid with respect to such refund, and

111 any other information that is deemed necessary by the commissioner
112 for the determination of such claim. Any claim for a refund with
113 respect to a controlled substance sold by such person during any
114 calendar year shall be filed with the commissioner on or before May
115 thirty-first of the succeeding year.

116 (b) (1) The commissioner shall, not later than ninety days after
117 receipt of any claim under this section, transmit all claims approved by
118 the commissioner to the Comptroller, who shall draw an order upon
119 the State Treasurer for payment. If the commissioner determines that
120 any such claim is not valid, either in whole or in part, the
121 commissioner shall mail notice of the proposed disallowance to the
122 claimant and such notice shall set forth briefly the commissioner's
123 findings of fact and the basis of disallowance in each case decided in
124 whole or in part adversely to the claimant. Sixty days after the date on
125 which it is mailed, a notice of proposed disallowance shall constitute a
126 final disallowance except only for such amounts as to which the
127 claimant has filed, as provided in subdivision (2) of this subsection, a
128 written protest with the commissioner.

129 (2) On or before the sixtieth day after the mailing of the proposed
130 disallowance, the claimant may file with the commissioner a written
131 protest against the proposed disallowance in which the claimant sets
132 forth the grounds on which the protest is based. If a protest is filed, the
133 commissioner shall reconsider the proposed disallowance and, if the
134 claimant has so requested, may grant or deny the claimant or the
135 claimant's authorized representatives an oral hearing.

136 (3) The commissioner shall mail notice of the commissioner's
137 determination to the claimant, which notice shall set forth briefly the
138 commissioner's findings of fact and the basis of decision in each case
139 decided in whole or in part adversely to the claimant.

140 (4) The action of the commissioner on the claimant's protest shall be
141 final upon the expiration of one month from the date on which the
142 commissioner mails notice of the commissioner's action to the claimant

143 unless within such period the claimant seeks judicial review of the
144 commissioner's determination in the manner provided for distributors
145 pursuant to section 12-463 of the general statutes.

146 Sec. 3. (NEW) (*Effective January 1, 2017*) There is established an
147 opioid abuse prevention and treatment account which shall be a
148 separate, nonlapsing account within the General Fund. The account
149 shall contain the amount of any surcharges collected pursuant to
150 section 1 of this act and any other moneys required by law to be
151 deposited in the account. Amounts in the account shall be expended
152 only for the purpose of providing funds to the Department of Mental
153 Health and Addiction Services to provide grants-in-aid for regional
154 opioid abuse prevention and treatment programs pursuant to section 5
155 of this act.

156 Sec. 4. Subsection (d) of section 17a-450 of the general statutes is
157 repealed and the following is substituted in lieu thereof (*Effective*
158 *January 1, 2017*):

159 (d) The Department of Mental Health and Addiction Services is
160 designated as the lead state agency for substance abuse prevention and
161 treatment in this state, and as such is designated as the state
162 methadone authority. As the designated state methadone authority,
163 the department is authorized by the federal Center for Substance
164 Abuse Treatment of the Substance Abuse and Mental Health Services
165 Administration within the United States Department of Health and
166 Human Services to exercise responsibility and authority for the
167 treatment of opiate addiction with an opioid medication, and
168 specifically for: (1) Approval of exceptions to federal opioid treatment
169 protocols in accordance with the Center for Substance Abuse
170 Treatment, (2) monitoring all opioid treatment programs in the state,
171 (3) providing grants-in-aid to regional opioid abuse prevention and
172 treatment programs that follow state and federal treatment protocols
173 in accordance with section 5 of this act, and [(3)] (4) approval of Center
174 for Substance Abuse Treatment certification of all opioid treatment

175 programs in the state. The Commissioner of Mental Health and
 176 Addiction Services may adopt regulations in accordance with chapter
 177 54 to carry out the provisions of this subsection.

178 Sec. 5. (NEW) (*Effective January 1, 2017*) (a) The Commissioner of
 179 Mental Health and Addiction Services shall provide grants-in-aid,
 180 within available resources, to one or more regional opioid abuse
 181 prevention and treatment programs in each mental health region
 182 established pursuant to section 17a-478 of the general statutes. The
 183 commissioner shall provide such grants-in-aid to programs that follow
 184 state and federal treatment protocols and shall allocate such grants-in-
 185 aid on the basis of regional need and demand for services. Each
 186 program that receives a grant-in-aid pursuant to this section shall
 187 provide services in a manner that reduces the stigma associated with
 188 opioid abuse prevention and treatment and minimizes client contact
 189 with the criminal justice system.

190 (b) Not later than January 31, 2018, the commissioner shall submit a
 191 report to the joint standing committees of the General Assembly
 192 having cognizance of matters relating to public health and finance,
 193 revenue and bonding concerning the grants-in-aid awarded during the
 194 calendar year commencing January 1, 2017. The report shall indicate
 195 the amount of the grants-in-aid awarded, the recipients of the grants-
 196 in-aid, any amounts remaining in the opioid abuse prevention and
 197 treatment account established pursuant to section 3 of this act that
 198 were not allocated as of December 31, 2017, and the commissioner's
 199 recommendations, if any, for amendments to the general statutes
 200 regarding the grants-in-aid program or regional opioid abuse
 201 prevention and treatment programs.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>January 1, 2017</i>	New section
Sec. 2	<i>January 1, 2017</i>	New section
Sec. 3	<i>January 1, 2017</i>	New section

Sec. 4	<i>January 1, 2017</i>	17a-450(d)
Sec. 5	<i>January 1, 2017</i>	New section

Statement of Purpose:

To establish a surcharge on the gross receipts of opioids sold in this state by manufacturers and wholesalers, establish an opioid abuse prevention and treatment account from the proceeds of the surcharge, and provide grants-in-aid to regional opioid abuse prevention and treatment programs that follow state and federal treatment protocols.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. CRISCO, 17th Dist.

S.B. 5